IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.70 OF 2004

Mahanagar Telephone Nigam Ltd. ....Petitioner

V/s.

Asco Engineering ....Respondent

Ms.M.I. Shah for the Petitioner.
Mr.U.S. Samudrala for the Respondent.

CORAM : S.J. VAZIFDAR, J.
DATED : 11TH OCTOBER, 2004.

P.C. :

1. This is a Petition for setting aside the award dated 5th August, 2003 by which the learned Arbitrators have awarded a sum of Rs.65,000/- in respect of certain work done by the Respondent for the Petitioner.

2. The amount retained is by way of liquidated damages by the Petitioner for delay in completion of the work by two months.

3. There is however a clear finding by the

learned Arbitrators that the contract was prolonged due to the default on the part of the Petitioner and due to change in various decisions on the part of the Petitioner. This is a finding of fact. There is nothing in the Petition which effectively challenges the same. The award can be sustained on this ground alone.

4. In these circumstances even assuming that the learned Arbitrators were wrong in their decision regarding the necessity of the Petitioner proving the damages or issuing a notice before levying the liquidated damages, it would make no difference to the award being upheld.

5. In the circumstances, the Petition is dismissed.